

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

This 6 day of February, 2008.


ROY WILLARD BLANKENSHIP,

Petitioner,

v. 405CV194

WILLIAM TERRY, Warden,
Georgia Diagnostic and Classification
Center,

Respondent.


B. AVANT EDENFIELD, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

ORDER

28 U.S.C. § 2254 habeas petitioner Roy Willard Blankenship appeals this Court's Order and Judgment dismissing his petition. Doc. # 28. He applies for a Certificate of Appealability (COA). Doc. # 30. The Court will construe his COA application as an implied motion for leave to appeal *in forma pauperis* (IFP). His IFP motion is examined under the pre-PLRA version of 28 U.S.C. § 1915. *Davis v. Fectel*, 150 F.3d 486, 490 (5th Cir. 1998).

Blankenship's COA application can be denied if it presents no procedural issue debatable among jurists of reason, *see Henry v. Dep't of Corrections*, 197 F.3d 1361, 1364 (11th Cir. 1999), or otherwise fails to make a substantial showing that he has been denied a constitutional right. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Gordon v. Sec'y Dep't of Corr.*, 479 F.3d 1299, 1300 (11th Cir. 2007); 28 U.S.C. § 2253(c)(2).

The Court agrees that petitioner has made a substantial showing here. *Blankenship v. Terry*, 2007 WL 4404972 (S.D.Ga. 12/13/07) (unpublished), presented a sufficiently close call on where the dividing line exists for ineffective assistance claims in the context this case presents. Accordingly, the Court **GRANTS** Roy Willard Blankenship's COA/IFP motions. Doc. # 30.